

be set as soon as practicable. Failure to appeal within fourteen (14) days shall render the tax assessor-collector's decision final.

(f) At the hearing conducted by the city council, all parties shall have the right to be represented by a licensed attorney and shall have the right to cross-examine opposing witnesses. After hearing the evidence presented by both sides, the city council shall, based on a preponderance of the evidence, render its decision. A copy of the decision shall be sent to all parties by certified mail, return receipt requested, as soon after the conclusion of the hearing as practicable but in no event more than thirty (30) days. The city council action shall be final.

(Code 1968, § 6½-11; Ord. No. 76-146, § 1(11), 2-3-76)

Sec. 7-26. Reports of property suspected stolen.

(a) It shall be the duty of the licensee, his agents or employees to report immediately to the police department any offer to sell to the licensee, his agents or employees property which such licensee, his agents or employees have actual knowledge is stolen or by reasonable diligence should know is stolen, together with the identity, when known, and description of the person or persons making such offer. Such licensee, his agents, or employees, shall also report any property acquired by the licensee which the licensee, his agents or employees, subsequently determine or reasonably suspect to be stolen property and the licensee, his agents or employees, shall furnish such other information as might be helpful to the police in investigating the matter.

(b) It shall be unlawful for any licensee, his agents or employees to purchase an item of property on which are written or affixed the words "Property of the City of Houston" or other words demonstrating ownership by the city except in the following circumstances:

- (1) Where the person offering such property for sale is an employee of the city authorized by the city treasurer to make such a sale, and provides the licensee, his agents or employees with a written authorization from the city treasurer for the sale of such property; or

- (2) Where the person offering such property for sale presents at the time of such offer a valid receipt from the city treasurer evidencing the purchase of such property by the person offering such property.

(Code 1968, § 6½-12; Ord. No. 76-146, § 1(12), 2-3-76)

Sec. 7-27. Exemptions from license fee.

An organization engaged in a business described herein, but which has qualified as nonprofit and which is exempt from taxation under the provisions of Section 501(c)(3) of Title 26 (Internal Revenue Code), of the United States Code, must obtain a license as required herein; provided however, that such organization shall be exempt from paying the license fee required herein. All other provisions of this article apply to such organizations.

(Code 1968, § 6½-13; Ord. No. 76-146, § 1(13), 2-3-76)

Secs. 7-28—7-50. Reserved.

ARTICLE III. JUNK DEALERS, SCRAP METAL PROCESSORS AND SECONDHAND DEALERS*

Sec. 7-51. Definitions; article inapplicable to automotive dealers.

(a) The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) *Junk dealer* shall mean anyone who engages in the business of buying, selling, trading, or otherwise dealing in new or used scrap materials, including ferrous and nonferrous metal, brass, waste material, etc.
- (2) *Scrap metal processor* shall mean anyone, who from a fixed location engages in the business

*Cross references—Automotive dealers, § 8-16 et seq.; auto wreckers and storage yards, § 8-101 et seq.; restriction on location of lots used for open storage by junk dealers and secondhand dealers, § 28-34; tire storage and tire carriers, § 21-181 et seq.

of utilizing machinery or equipment for the processing of or manufacturing of iron, steel or non-ferrous metallic scrap and whose principal product is scrap iron, scrap steel or non-ferrous metallic scrap for remelting purposes.

- (3) *Secondhand dealer* shall mean anyone who engages in the business of buying, selling, trading or otherwise dealing in used items.
- (4) *Show* shall mean any display and offering of used items for sale or trade by more than one dealer at a single location.
- (5) *Used* means any items, goods, products, wares, chattels, or articles or any sort which have previously been owned by someone other than the manufacturer, or a dealer whose business it is to sell such items, goods, products, wares, chattels, or articles when new to the consumer.

(b) This article shall not apply to businesses licensed as automotive dealers under chapter 8, article II of this Code or pawnshops as defined by state law.

(Code 1968, § 23-1; Ord. No. 76-271, § 1, 2-17-76; Ord. No. 83-996, § 1, 6-29-83)

Sec. 7-52. License required; application of section 7-55; posting of license.

No person shall operate as a junk dealer, scrap metal processor, or secondhand dealer or own any such business without a license as herein provided. Any person who engages in more than one business described herein at the same location must obtain a license only for his principal business activity and not for the other businesses. The provisions of section 7-55, requiring that certain records be kept, apply to all businesses carried on at a single location. A separate license shall be required for each permanent location of any such business. The license shall be posted in a conspicuous place upon the licensed premises.

(Code 1968, § 23-2; Ord. No. 76-271, § 1, 2-17-76; Ord. No. 79-1036, § 1, 6-29-79)

Sec. 7-53. Application for and issuance or refusal of license.

(a) Any person desiring a license required by this article shall make application therefor in writing to the tax assessor-collector on an application

form provided for that purpose, stating where the business is to be located and the residential address of the owner or manager. Such application form shall be accompanied by an affidavit of the applicant, that neither he nor any business partner, nor, in the case of a corporation, any corporate officer, has had a license under this chapter or any preceding city ordinance governing the businesses described herein revoked.

(b) Upon receipt of such application, the tax assessor-collector or his designated deputy shall investigate the items sworn to by affidavit. Such deputies may include representatives of various city departments. If neither the applicant, his business partners, nor any corporate officers have had a license revoked as described above, the tax assessor-collector may issue a license to the applicant upon payment of the license fee. The tax assessor-collector may reject an original application, or an application for a renewal of any existing license, if, as a result of inspections by other city departments, it appears that the applicants' place of business is not in compliance with the provisions of this article.

(c) If the tax assessor-collector rejects the application, or a renewal of an existing license, he shall give written notice by certified mail to the applicant at the address stated in the application. The written notice shall specifically set forth the reasons for the rejection.

(d) The applicant shall have thirty (30) days from the date of the mailing of the notice of rejection to appeal the rejection of his application to the city council by filing written notice of such appeal with the city secretary. Upon receipt of such notice, the city council shall notify the applicant of the date and time of the hearing, to be held at the earliest time practicable. At the hearing, the city council shall hear evidence on the grounds for the rejection of the application. Based on a preponderance of the evidence, city council shall sustain or overrule such rejection in writing within ten (10) days. The applicant shall be notified of city council's written decision by certified mail, return receipt requested. This shall conclude the applicant's administrative remedies and city council action shall be final.

(Code 1968, § 23-3; Ord. No. 76-271, § 1, 2-17-76; Ord. No. 82-2038, § 3, 12-22-82)

Sec. 7-54. License fees; use of license at shows.

(a) The license fees for junk dealers, scrap metal processors, and secondhand dealers with permanent places of business within the city shall be two hundred dollars (\$200.00) yearly, payable prior to the issuance of the license. Such license, unless revoked as provided herein, shall be valid for one year from the date of issuance and shall be subject to renewal from year to year.

(b) Each licensee with a permanent business location in the city may use the license for that business when attending shows at other locations in the city.

(c) Any dealer described herein who desires to sell items at shows in the city, but who does not maintain a permanent place of business in the city, must apply for and secure a license for each location. License fees for shows shall be two dollars (\$2.00) per day.

(d) Notwithstanding any other provisions of this article, the license fee shall be twenty-five dollars (\$25.00) yearly for any secondhand dealer who deals exclusively in:

- (1) Used books, magazines and other printed documents;
- (2) Used phonographic records, magnetic audio tapes, audio discs or other recordings of sound which do not include recordings of visual images; and/or
- (3) Used items of clothing, except those made in whole or in part from fur,

but not in any other items, goods, products, wares, clothes or articles which are subject to regulation under this article. The said license fee shall be paid prior to the issuance of the license or renewal thereof.

A license issued under this subsection shall be conspicuously marked to indicate that the business is authorized to deal only in the items listed in this subsection.

(Code 1968, § 23-8; Ord. No. 76-271, § 1, 2-17-76; Ord. No. 82-2038, § 4, 12-22-82; Ord. No. 86-639, § 2, 5-13-86)

Sec. 7-55. Records required to be kept.

(a) Every person licensed as a junk dealer, scrap metal processor or secondhand dealer shall keep at his place of business a record book, in a form approved by the chief of police, in which he shall enter daily a full description of all personal property purchased or otherwise received at his licensed place of business. Such description shall include the date of receipt, the name and address of the person or place of business from whom such item was received, and the driver's license or Texas personal identification certificate number of the person selling or otherwise giving the items. All entries in the record book shall be made legibly.

(b) In addition to the requirements set out in subsection (a) hereof, the property shall be fully described including, where customary in the business, the size, weight, material, length, number of items, capacity, and any other designations or descriptions customarily employed in the sale and purchase of such items. The licensee, his agents or employees shall obtain a consecutively numbered receipt from the seller or transferor of the property. Such receipt shall be dated on the actual date of the transaction and such receipts shall list the items sold or otherwise transferred.

An accurate copy or record of receipts obtained shall be retained for a period of not less than three (3) years.

(c) Every person licensed as a junk dealer, scrap metal processor or secondhand dealer shall, upon request, submit and exhibit the various business records which are required to be maintained under this section for inspection or copying by any peace officer or authorized inspector of the city tax assessor-collector. Failure to maintain or to so permit the examination or copying of such records when requested shall be a misdemeanor.

(Code 1968, § 23-5; Ord. No. 76-271, § 1, 2-17-76)

Cross reference—Exemption from chapter provisions, § 7-62.1.

Sec. 7-56. Stock to be open for examination.

The stock or inventory of any junk dealer, scrap metal processor or secondhand dealer that is openly

displayed and available to the public shall at any time during ordinary business hours be accessible for examination by any peace officer or authorized inspector of the tax assessor-collector's office. Failure to permit an examination when requested shall be a misdemeanor.

(Code 1968, § 23-6; Ord. No. 76-271, § 1, 2-17-76)

Sec. 7-57. Articles to be retained at least seven days.

No junk dealer, scrap metal processor or secondhand dealer shall sell, dismantle, deface or in any manner alter or dispose of any item purchased or otherwise received by him at his licensed place of business for seven (7) days after receipt. During such seven-day period, all items of property shall be stored or displayed at the dealer's business location, in the exact form received, and in a manner so as to be identifiable from the description entered in the record book. Such property shall not be kept in such a manner so as to prevent or impede its examination.

(Code 1968, § 23-7; Ord. No. 76-271, § 1, 2-17-76; Ord. No. 77-1012, § 1, 5-24-77)

Cross reference—Exemption from chapter provisions, § 7-62.1.

Sec. 7-58. Purchasing or receiving goods of minors.

No junk dealer, scrap metal processor or secondhand dealer shall purchase or otherwise receive in the course of his business, any item, ownership of which is claimed by any minor, or which may be in the possession of or under control of a minor, unless the minor's parent or guardian shall state in writing, that such transaction is taking place with such parent's or guardian's full knowledge and consent. It shall be the duty of such junk dealer, scrap metal processor or secondhand dealer to preserve and keep on file, and available for inspection, such written statements of consent.

(Code 1968, § 23-8; Ord. No. 76-271, § 1, 2-17-76)

Sec. 7-59. Change in business address.

Should any person licensed under this article move his place of business from the place designated in such license to a new address, he shall immediately give written notice to the tax assessor-collector and have the change noted on his license.

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A fee of two dollars (\$2.00) payable to the tax assessor-collector is hereby levied for such change. (Code 1968, § 23-10; Ord. No. 76-271, § 1, 2-17-76)

Sec. 7-60. Revocation of license.

(a) Upon written verified complaint filed by any person with the tax assessor-collector setting out facts alleging that any licensee under this article has, since the license was granted, violated the provisions of this chapter or any health regulation of the city or the state, or any state or federal statute involving the criminal offense of theft, or the provisions of section 37.09 or 37.10 of the Texas Penal Code or that the licensee falsified his original application for a license, the city tax assessor-collector shall investigate the allegations.

(b) Such complaint shall be investigated, heard, determined, and shall be subject to appeal as provided in section 7-25 as applicable to antique dealers. (Code 1968, § 23-11; Ord. No. 76-271, § 1, 2-17-76; Ord. No. 82-2038, § 5, 12-22-82)

Sec. 7-61. Reports of property suspected stolen.

(a) It shall be the duty of the licensee, his agents or employees to report immediately to the police department any offer to sell to the licensee, his agents or employees, property which such licensee, his agents or employees have actual knowledge is stolen or by reasonable diligence should know is stolen, together with the identity, when known, and description of the person or persons making such offer. Such licensee, his agents, or employees, shall also report any property acquired by the licensee which the licensee, his agents or employees, subsequently determine or reasonably suspect to be stolen property and the licensee, his agents or employees, shall furnish such other information as might be helpful to the police in investigating the matter.

(b) It shall be unlawful for any licensee, his agents or employees to purchase an item of property on which are written or affixed the words "Property of the City of Houston" or other words demonstrating ownership by the city except in the following circumstances:

- (1) Where the person offering such property for sale is an employee of the city authorized by

the city treasurer to make such a sale and provides the licensee, his agents or employees with a written authorization from the city treasurer for the sale of such property; or

- (2) Where the person offering such property for sale presents at the time of such offer a valid receipt from the city treasurer evidencing the purchase of such property by the person offering such property.

(Code 1968, § 23-12; Ord. No. 76-271, § 1, 2-17-76)

Sec. 7-62. Exemptions—From license fee.

An organization engaged in a business described herein, but which has qualified as nonprofit and which is exempt from taxation under the provisions of Section 501(c)(3) of Title 26 (Internal Revenue Code) of the United States Code, must obtain a license as required herein; provided however, that such organization shall be exempt from paying the license fee required herein. All other provisions of this article apply to such organizations. (Code 1968, § 23-13; Ord. No. 76-271, § 1, 2-17-76)

Sec. 7-62.1. From other chapter provisions.

Notwithstanding any other provision of this article which might be construed to the contrary, the provisions of sections 7-55 and 7-57 shall not be applicable to the sale, receipt, transfer or holding of:

- (1) Used books, magazines and other printed documents;
 - (2) Used phonograph records, magnetic audio tapes, audio discs or other recordings of sound which do not include recordings of visual images; and
 - (3) Used items of clothing, except those made in whole or in part from fur.
- (Ord. No. 86-639, § 1, 5-13-86)

Sec. 7-63. Operation of yards used by junk dealers or secondhand dealers.

(a) *Compliance.* All lots or tracts of land used for the purpose of carrying on the business or trade of a junk dealer or used for open storage by a secondhand dealer shall comply with the requirement of this section.

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(b) *Removal of flammable liquids from vehicles.* All gasoline, gasohol and diesel fuel shall be completely drained and removed from any junked, wrecked or abandoned automotive vehicle before the vehicle is placed in any yard owned or operated by a junk dealer or secondhand dealer. All flammable liquids drained from any vehicle shall be stored in a safe manner and in strict accordance with the city Fire Code.

(c) *Fencing, wall requirements.* Every yard owned or operated by a junk dealer or secondhand dealer within the city shall be completely surrounded and enclosed by a solid fence or wall as follows:

- (1) Any side of such yard which extends generally parallel to, and within one hundred (100) feet of any public street right-of-way shall be bounded by a solid fence or wall at least eight (8) feet in height.
- (2) All sides of such yard not included in (1) above shall be bounded by a solid fence or wall at least six (6) feet in height.
- (3) The term "solid" as used herein shall mean constructed and maintained so that the outer surface thereof is continuous and without interstices, gaps, spaces or holes. This shall not be construed to prohibit any spaces or gaps left by a properly constructed and maintained chain link fence with strips or slats as hereinafter provided.

(d) *Construction, maintenance of fence or wall.* Every fence or wall herein required shall be constructed and maintained as follows:

- (1) All fences shall be constructed of wood, masonry, corrugated sheet metal, chain link, or any combination thereof; provided, however, that any one side shall be bounded by a fence or wall constructed of only one of the above materials.
- (2) Chain link fences shall be constructed of galvanized chain link fencing with wood or metal slats or strips run through all links of the chain link fence.
- (3) All fences or walls shall extend downward to within three (3) inches of the ground and shall test plumb and square at all times.

- (4) All fences or walls shall be constructed in compliance with all applicable provisions of the Construction Code.

(e) *Use of wall, door of building as part of fence or wall.* Any part of a fence or wall required by subsection (c) hereof may consist, in whole or in part, of a solid wall and door, or walls and doors of any completely enclosed building on said premises, if such wall or door meets all construction requirements hereinabove set forth.

(f) *Gates at openings in enclosure.* Openings in the prescribed enclosure which are necessary to permit reasonable access to such yards shall be equipped with a solid gate or gates, constructed and maintained in accordance with the requirements for a fence or wall hereinabove set forth. Such gates shall be closed and securely locked at all times except during normal daytime business hours.

(g) *Use of premises outside enclosure.* It shall be unlawful for any owner, operator, his agents or employees, to display, store or work on any junked or wrecked automotive vehicle, or the parts, accessories or junk therefrom or any other new or used scrap materials outside of or above the hereinrequired fence or wall.

(h) *Arrangement of materials.* All automotive vehicles, parts and other materials located in or on the premises of any yard owned or operated by a junk dealer or secondhand dealer in the city shall be so arranged to allow reasonable access to, and inspection of, the premises by authorized fire, neighborhood protection and police officials of the city.

(i) *Control of vegetation.* It shall be unlawful for the owners or operators of any yard used by a junk dealer or secondhand dealer to allow grass or other vegetation to grow to a height of more than nine inches above the ground.

(j) *Compliance with regulations and ordinances.* All yards used by a junk dealer or secondhand dealer must at all times be in full compliance with all city ordinances regarding health and safety, including specifically, without limitation, all requirements of the city Fire Code.

(k) *Improved surface.* All lots or tracts of land used as a yard by a junk dealer or secondhand dealer must have an all-weather surface of concrete, asphalt, black-top, stone, macadam, limestone, iron ore, gravel, shell, slag or other hard fill surface and appropriate drainage.

(l) *Storage of materials.* Any materials stored in a yard owned and operated by a junk dealer or secondhand dealer must be stored at least six inches above the improved surface of the yard. The requirements of this subsection shall not apply to any materials stored wholly inside a building.

(m) *Violations and penalties.* Failure to comply with any provision of this section shall be grounds for the revocation of or the refusal to issue or renew any license required of a junk dealer or secondhand dealer under this Code. Any person violating any provision of this section shall be punished as provided by section 1-6 of this Code. (Code 1968, § 23-16; Ord. No. 71-267, §§ 1-3, 2-24-71; Ord. No. 71-825, § 1, 5-4-71; Ord. No. 82-2038, § 6, 12-22-82; Ord. No. 83-996, § 2, 6-29-83; Ord. No. 85-2216, §§ 1, 2, 12-26-85; Ord. No. 90-635, § 18-A, 5-23-90; Ord. No. 92-1449, § 8, 11-4-92; Ord. No. 93-514, § 15, 5-5-93; Ord. No. 94-674, § 6, 7-6-94; Ord. No. 98-613, § 18, 8-5-98; Ord. No. 02-399, § 18, 5-15-02)

Sec. 7-64. Operation of yards used by scrap metal processors.

(a) *Compliance.* All lots or tracts of land used for the purpose of carrying on the business or trade of scrap metal processors shall comply with the requirement of this section.

(b) *Removal of flammable liquids from vehicles.* All gasoline, gasohol and diesel fuel shall be completely drained and removed from any junked, wrecked or abandoned automotive vehicle before the vehicle is placed in any yard owned or operated by a scrap metal processor in the city. All flammable liquids drained from any vehicle shall be stored in a safe manner and in strict accordance with the city Fire Code.

(c) *Fencing, wall requirements.* Every equipment and inventory storage and processing yard owned or operated by a scrap metal processor within the city shall be completely surrounded and enclosed by a solid fence or wall as follows:

- (1) Any side of such yard which extends generally parallel to, and within 100 feet of any public street right-of-way shall be bounded by a solid fence or wall at least six feet in height.
- (2) All sides of such yard not included in (1) above shall be bounded by a solid fence or wall at least six feet in height.
- (3) The term "solid" as used herein shall mean constructed and maintained so that the outer surface thereof is continuous and without interstices, gaps, spaces or holes. This shall not be construed to prohibit any spaces or gaps left by a properly constructed and maintained chain link fence with strips or slats as hereinafter provided.

(d) *Construction, maintenance of fence or wall.* Every fence or wall herein required shall be constructed and maintained in good repair as follows:

- (1) All fences shall be constructed of wood, masonry, corrugated sheet metal, chain link, or any combination thereof; provided, however, that any one side shall be bounded by a fence or wall constructed of only one of the above materials.
- (2) Chain link fences shall be constructed of galvanized chain link fencing with wood or metal slats or strips run through all links of the chain link fence.
- (3) All fences or walls shall extend downward to within three inches of the ground and shall test plumb and square at all times.
- (4) All fences or walls shall be constructed in compliance with all applicable provisions of the Construction Code.

(e) *Use of wall, door of building as part of fence or wall.* Any part of a fence or wall required by subsection (c) hereof may consist, in whole or in part, of a solid wall and door, or walls and doors of

any completely enclosed building on said premises, if such wall or door meets all construction requirements hereinabove set forth.

(f) *Gates at openings in enclosure.* Openings in the prescribed enclosure which are necessary to permit reasonable access to such yards shall be equipped with a gate or gates, constructed and maintained in accordance with the requirements for a fence or wall hereinabove set forth. Such gates shall be closed and securely locked at all times except during normal business hours.

(g) *Use of premises outside enclosure.* It shall be unlawful for an owner, operator, his agents or employees, to display, store or work on any junked or wrecked automotive vehicle, or the parts, accessories or junk therefrom or any other new or used scrap materials outside of the hereinrequired fence or wall.

(h) *Arrangement of materials.* All automotive vehicles, parts and other materials located in or on the premises of any yard owned or operated by a scrap metal processor in the city shall be so arranged to allow reasonable access to, and inspection of, the premises by authorized fire, health and police officials and the neighborhood protection official of the city. No materials shall be stored at a height greater than six feet within ten feet of the fence required herein.

(i) *Control of vegetation.* It shall be unlawful for the owners or operators of any yard used by a scrap metal processor to allow grass or other vegetation to grow to a height of more than nine inches above the ground.

(j) *Compliance with regulations and ordinances.* All yards used by a scrap metal processor must at all times be in full compliance with all city ordinances regarding health and safety, including specifically, without limitation, all requirements of the city Fire Code.

(k) *Improved surface.* All lots or tracts of land used as a yard by a scrap metal processor must have an all-weather surface of concrete, asphalt, black-top, stone, macadam, limestone, iron ore, gravel, shell, slag or other hard fill surface and appropriate drainage. This subsection shall not include those areas of a yard which are utilized for purposes of inventory storage and processing.

(l) *Vector and rodent control.* Any materials stored in a yard owned and operated by a scrap metal processor must be stored at in a manner which will allow adequate vector and rodent control measures. An owner or operator shall provide for vector and rodent control at least once within a 90-day period or more frequently as needed.

(3) *Used goods* shall mean any items, goods, products, wares, chattels, or articles of any sort which have previously been owned by someone other than the manufacturer or a dealer

(m) *Violations and penalties.* Failure to comply with any provisions of this section shall be grounds for the revocation of or the refusal to issue or renew any license required of a scrap metal processor under this Code. Any person violating any provision of this section shall be punished as provided by section 1-6 of this Code.

(Code 1968, § 23-17; Ord. No. 83-996, § 3, 6-29-83; Ord. No. 85-2216, § 3, 12-26-85; Ord. No. 90-635, § 18-B, 5-23-90; Ord. No. 92-1449, § 9, 11-4-92; Ord. No. 93-514, § 16, 5-5-93; Ord. No. 98-613, § 19, 8-5-98; Ord. No. 02-399, § 19, 5-15-02)

Charter reference—Penalties for ordinance violations, Art. II, § 12.

Cross references—Assessment of fines against corporations, § 16-76; payment of fines, § 16-78; credit against fines for incarceration, § 35-6 et seq.

Secs. 7-65—7-80. Reserved.

ARTICLE IV. PAWNBROKERS

Sec. 7-81. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) *Pawnbroker* means any person who is required to be licensed as a pawnbroker by the state.
- (2) *Pledged goods* shall mean tangible personal property other than choses in action, securities or printed evidences of indebtedness, which property was deposited with, or otherwise actually delivered into the possession of a pawnbroker as security for money loaned, or on condition that it may be redeemed or repurchased by the seller for a fixed price within a fixed period of time.